

REMARKS

Claims 18-25, 27-31 and 33-37 are pending in the present application after cancellation of claims 26 and 32. Claims 18, 25, 31, 36 and 37 have been amended. In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claim Objections

The Examiner objected to claims 18, 25 and 31 because “the term ‘predetermined regulations’ imply a law when in fact the predetermined regulations are simply European technical standards.” In response, claims 18, 25 and 31 have been amended to replace “predetermined regulations” with “predetermined technical standards.”

§ 112 Rejection

Claims 18-37 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

In response to the Examiner’s comments with respect to claim 18, Applicants have amended claim 18 to consistently recite “digitally coding traffic information according to a subset of possible options of predetermined technical standards,” and that “the traffic information does not make use of all the options and is always at least one of coded, transmitted, and decoded according to the subset.” To the extent the Examiner contends that “the TMC message format does not relate to predetermined regulations for transmitting digitally coded traffic information,” Applicants respectfully disagree that TMC does not relate to transmission of traffic information. In any case, Applicants note that amended claim 18 now recites “transmitting the digitally coded traffic information” (instead of “transmitting the digitally coded traffic information **according to predetermined regulations**”). Accordingly, Applicants submit that amended claim 18 is in compliance with 35 U.S.C. § 112, second paragraph.

Claim 25 has been amended in accordance with the Examiner’s comments to incorporate “a receiving unit.” Similarly, claim 31 has been amended in accordance with the Examiner’s comments to incorporate “a transmitting unit” and to recite “an arrangement for coding traffic information.”

For at least the foregoing reasons, withdrawal of the indefiniteness rejection is respectfully requested.

§ 103(a) Rejections

Claims 18-26, 28-32 and 34-37 were rejected under 35 U.S.C. § 103(a) as anticipated by U.S. Patent Publication No. 2002/0194170 (“Israni”). Claims 26 and 32 have been canceled. Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements” in the manner claimed. See KSR Int’l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007). In this regard, the Supreme Court further noted that “**rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.**” Id., at 1396.

Amended claim 18 recites, in relevant pars, “**the subset of possible options of the predetermined technical standards is defined for the digitally coding the traffic information**, the options relating to at least one of a TMC message format and the ALERT-C Syntax, and **the traffic information does not make use of all the options and is always at least one of coded, transmitted, and decoded according to the subset.**” In support of the rejection, the Examiner contends that it would have been obvious to modify the teachings of Israni to arrive at the present claimed invention because such modification “would yield the predictable result of a savings in transmission resources including a shorter transmission time . . . and a shorter processing time.” (Office Action, p. 5). Applicants note that this assertion by the Examiner is a mere variation of the “less bandwidth” motivation presented by the

Examiner in the Advisory Action of April 30, 2007. As clearly explained in the Appeal Brief of November 30, 2007, Israni clearly does not suggest anything regarding the need for “a savings in the transmission resources,” let alone suggest modifying the real-time traffic broadcasts as asserted by the Examiner, and therefore the Examiner’s assertion is essentially that, given the ordinary skill level in the art at the time of the invention, it would have been “obvious to try” the modification to arrive at the present claimed invention. To the extent the Examiner’s obviousness argument is entirely dependent on the “level of ordinary skill in the art,” the Examiner’s argument is clearly deficient in that the Examiner hasn’t even attempted to produce any evidence regarding what the ordinary skill level in the art is. In any case, the “obvious to try” rationale is clearly insufficient to support an obviousness rejection, particularly when the Examiner has not established any finding as to: a) whether the problem addressed by the present invention was recognized in the art; or b) whether there was any recognized potential solution to the problem in the art.

In view of the foregoing, it is respectfully submitted that claims 18, 25 and 31, as well as dependent claims 19-24, 28-30 and 34-37, are allowable over Israni.

Claims 27 and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Israni in view of U.S. Patent No. 6,070,123 (“Beyer”). Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

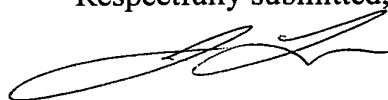
It is respectfully submitted that even if it were proper to modify the Israni reference as suggested (which is not conceded), Beyer does not cure the critical deficiencies of Israni (as explained above) with respect to claims 25 and 31, from which claims 27 and 33, respectively, depend, for at least the reasons that Beyer, like Israni, fails to disclose or suggest the features of claims 25 and 31 with respect to digitally coding traffic information according to a subset of possible options of predetermined technical standards. Indeed, the Office Action recites Beyer only to assert disclosure of a bidirectional link. It is therefore respectfully submitted that claims 27 and 33 are allowable over the combination of Israni and Beyer.

In view of the foregoing, withdrawal of the rejections based on Israni and Beyer is therefore respectfully requested.

Conclusion

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,



(R. No. 36,197)

Dated: September 2, 2008

By: SONG LEE for Gerard Messina

Gerard A. Messina
(Reg. No. 35,952)

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO. 26646